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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,983	10/14/2003	Dan N. Huynh	66638-41556	4718
21888	7590	06/28/2005	EXAMINER	
THOMPSON COBURN, LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101			WILSON, KATINA M	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/684,983

Applicant(s)

HUYNH ET AL.

Examiner

Katina M. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-16 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 5-9, 17-19 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 1, 20-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Britton et al 6343690B1.

Britton et al teaches a specimen carrier 10 adapted to be transported by an automated conveyor system comprising a conveyor means (table) having a planar surface, which is basically constructed to support the specimen carrier just as the table is supporting the support fixtures; a plurality of specimen carrier 10 mounted on the conveyor means surface, each specimen carrier being adapted to support a length of the tubing (retaining portion 14), each specimen carrier having a motive source (idler pinch roller 22) supporting the specimen carrier at different times on the conveyor means surface for movement of the specimen carrier over the conveyor means surface; and where the idler pinch roller 22 is communicating with each of the specimen carrier for controlling movement of the specimen carriers over the conveyor means surface to a predetermined locations of the specimen carrier on the conveyor means surface (abstract, figures, col. 4, lines 45-67, col. 5, lines 1-33).

Claim 20-22 commensurate in scope with claim 1 and is rejected for the same reasons.

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As to claim 24, Britton teaches the pinch roller 22 engages the top portion of pedestal portion 16 to impart a rotational movement of the carrier about the A axis (col. 5, lines 7-12, figure 4).

3. Claims 1-3, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Quinlan et al 5941366.

Quinlan et al teaches a specimen carrier 4 adapted via base 10 to be transported by an moving conveyor 44 comprising a conveyor means (table) having a planar surface, which is basically constructed to support the specimen carrier just as the table is supporting the support fixtures; a plurality of specimen carrier 4 mounted on the conveyor means surface, each specimen carrier being adapted to support a length of the tubing (retainer members 12 function as a tube hold and supports a length of the tubing), each specimen carrier having a motive source (gate 94) supporting the specimen carrier on the conveyor means surface for movement of the specimen carrier over the conveyor means surface; and a control means communicating with each of the specimen carrier via a drive means to move gate 94 as desired for controlling movement of the specimen carrier over the conveyor means surface to a predetermined locations of the specimen carrier on the conveyor means surface (abstract, col. 5, lines 5-8, col. 6, lines 22-53, figures).

As to claim 2, gate 94 in figures 6 a-c is partially over the conveyor means and rotates up to 270 degrees and therefore the motive source/gate does has a perpendicular direction just as much as the applicant' invention has a perpendicular direction, since the applicant discloses the perpendicular direction

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is the X and Y coordinates on the planar table surface on page 4 last paragraph of applicant's invention.

As to claim 3, specimen carrier carries test tubes 6 in retainer members 12, which has a test tube rotating means 202 (col. 9, lines 1-18).

Claim 20-22 commensurate in scope with claim 1 and is rejected for the same reasons.

Claim 23 commensurate in scope with claim 2 and is rejected for the same reasons.

As to claim 24, Quinlan et al teaches/shows gate 94 engages specimen carrier 4 and rotates and moves the carrier along the conveyor means (figure 6a-c).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quinlan et al in view of Britton et al.

As to claim 4, Quinlan et al does not teach the tubing holder being operable to selectively grip and release a length of tubing positioned on the tubing holder. However Britton et al teaches a retaining portion 14 comprises a plurality of rigid members 14A and flexible fingers 14B to flex away as a specimen container is

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inserted and to engage and press upon to receive the container (col. 4, lines 59-67). In figures 1, 2, and 4 show different lengths of the container may receive by the retaining portion 14. It would have been obvious to one skilled in the art at the time of the invention was made to modify Quinlan et al specimen carrier 4 to include Britton's et al retaining portion 14 for receiving, supporting, and retaining a specimen container C (col. 4, lines 42-46).

6. Claims 10, 12-15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quinlan et al.

Claims 10, 12-15 commensurate in scope with claims 1-3 and are rejected for the same reasons, except for utilizing plural tables. Quinlan et al does not teach a plurality of separate tables, each having a planar table surface.

Duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 196054).

7. Claims 10, 12-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Britton et al.

Claims 10, 12-16 commensurate in scope with claims 1-4 and are rejected for the same reasons, except for utilizing plural tables. Britton et al does not teach a plurality of separate tables, each having a planar table surface.

Duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quinlan et al in view of Ensinger 3944054.

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As to claim 11, Quinlan et al does not teach the plurality of tables being removably interconnected. However, Ensinger teaches changing the length of the conveyor belt one would remove section of the belt. It would have been obvious to one skill in the art at the time the invention was made to use an adjustable conveyor belt to change the length of the conveyor belt to the proper or necessary length.

***Allowable Subject Matter***

9. Claims 5-9, 17-19, 25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katina M. Wilson whose telephone number is 571-272-2209. The examiner can normally be reached on Mon-Fri 6:15am-2:00pm, off on Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KW



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